

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION

TAMMY R. SCARBOROUGH

PLAINTIFF

V.

NO. 3:05CV00219 JMM/JWC

LARRY MILLS, et al

DEFENDANTS

ORDER

Plaintiff, proceeding pro se, was formerly confined to the Poinsett County Detention Center as well as the Southeast Arkansas Community Punishment Center. On January 25, 2006, Defendants propounded discovery requests on Plaintiff but received no response. On March 17, 2006, Plaintiff filed a motion for continuance (docket entry #28) of the evidentiary hearing set for July 10, 2006, in Little Rock. Plaintiff sought an extension on the grounds that she would be incarcerated until April 24, 2006, she did not presently have the information to provide to Defendants, and she was unable to locate her witnesses. Plaintiff further stated that she was attempting to obtain counsel. By order entered March 30, 2006 (docket entry #32), Plaintiff's motion was granted. Between March 17, 2006, and early July 2006, Plaintiff was not in contact with Defendants or with this Court. On July 5, 2006, Plaintiff filed a notice of change of address indicating that she was no longer incarcerated (docket entry #37). To date, she has failed to respond to Defendants' January 25, 2006, discovery; therefore, they have filed a motion to compel (docket entry #38).

Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter of the pending action. Fed. R. Civ. P. 26(b)(1). This Court and Defendants have been both flexible and accommodating of Plaintiff's circumstances; however, Plaintiff's continued failure to prosecute this action in a diligent manner is resulting in unfair prejudice to Defendants and will no longer be tolerated. Plaintiff is

therefore ordered to respond to Defendants' discovery within twenty (20) days of this order's entry date.

Based on Plaintiff's dereliction, Defendants have also filed a motion for extension of the motions deadline (docket entry #39), set at July 10, 2006. Without Plaintiff's discovery responses, Defendants can neither determine the necessity for filing a dispositive motion nor can they move forward with their defense. Moreover, this case has already been rescheduled for evidentiary hearing on September 8, 2006. Plaintiff's exhibit and witness lists are due by August 11, 2006, less than a month from now. For these reasons, the motion is granted.

In accordance with the above, IT IS, THEREFORE, ORDERED that:

1. Defendants' motion to compel (docket entry #38) is GRANTED.
2. Plaintiff is directed to respond to Defendants' discovery requests within twenty (20) days of this order's entry date.
3. Defendants' motion for extension (docket entry #39) is GRANTED. The motions deadline is extended to August 7, 2006.

Plaintiff is advised that her failure to timely comply with this order will result in the recommended dismissal of her case without prejudice. Plaintiff is further advised that she may file a motion to voluntarily dismiss her case without prejudice to refiling at such time that she can fully pursue this matter in a timely manner.

IT IS SO ORDERED this 18th day of July, 2006.


UNITED STATES MAGISTRATE JUDGE